

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)		
	)	CUID No.	OR0132 (Eugene)
TCI Communications	)		
	)		
Complaint Regarding	)		
Cable Programming Services Tier Rates	)		

**ORDER**

**Adopted: November 16, 2001**

**Released: November 21, 2001**

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a complaint against the August 25, 1994 rate increase by the above-referenced operator ("Operator") for its cable programming services tier ("CPST") in the community referenced above. Under the Communications Act,<sup>1</sup> at the time the complaint was filed, the Commission was authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act")<sup>2</sup> required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber. The filing of a valid complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.<sup>3</sup> If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>4</sup>

2. Section 76.961 (b) of the Commission's rules<sup>5</sup> limits the calculation of refund liability to a period which begins on the date a valid complaint was filed. In the instant matter, Complainant discontinued service prior to the filing date of the complaint and there is no indication in the record that Complainant, an Adult Foster Care Home, represents a class of subscribers that would benefit from a determination of the reasonableness of Operator's CPST rate increase. Operator could not incur any refund liability based on the complaint even if we were to find that Operator had overcharged the subscriber - there would not be any class of subscribers to provide refunds to. It would not be a judicious use of Commission resources to attempt to resolve CPST rate complaints that could only result in a finding of no refund liability. Resolution of such complaints would have no consequences other than to put additional strain on limited Commission resources which are better put to resolving pending complaints and appeals of orders which involve potential or actual refund liability. Therefore, we will dismiss the referenced complaint.

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<sup>1</sup> Communications Act, Section 623(c), as amended, 47 U.S.C. §543(c) (1996).

<sup>2</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>3</sup> 47 C.F.R. §76.956.

<sup>4</sup> 47 C.F.R. §76.957.

<sup>5</sup> 47 C.F.R. § 79.961 (b).

3. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaint referenced above IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief  
Cable Services Bureau